

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.	)	
	)	
Federal-State Joint Board on	)	CC Docket No. <u>96-45</u>
Universal Service	)	

**OPPOSITION TO PETITION FOR RECONSIDERATION**

The National Exchange Carrier Association, Inc. (NECA) herein files its opposition to MCI's petition for reconsideration of the Commission's Order in the above-captioned matter.<sup>1</sup>

The NECA Order created a three-company structure for administration of new universal service programs.<sup>2</sup> In the order, the Commission appointed NECA temporary administrator of the high cost and low income programs through a Universal Service Administrative Company (USAC) subsidiary with an independent board of directors.<sup>3</sup> The Commission also provided details on the selection and structure of the USAC and the independent Schools & Libraries and Rural Health Care Corporations' Boards, and some details on implementation.<sup>4</sup>

Five petitions for reconsideration of the NECA Order were subsequently filed with the

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<sup>1</sup> Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service, *Report and Order and Second Order on Reconsideration*, CC 97-253, CC Docket Nos. 97-21 and 96-45 (rel. July 18, 1997) (*NECA Order*).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

Commission, including a petition from MCI. MCI asserts that the Order confers certain advantages on USAC in a bid to become permanent administrator of universal service support mechanisms.<sup>5</sup> MCI states that these advantages “appear to guarantee” that USAC will be chosen as the permanent administrator.<sup>6</sup>

MCI first argues that USAC will have preferential access to information about the functioning of the universal service support mechanisms.<sup>7</sup> As a result, MCI suggests that, “to ensure unbiased bidding for the permanent administrator position, the Commission should prohibit the USAC from bidding to become permanent administrator.”<sup>8</sup>

Contrary to MCI’s claims, the Commission’s detailed criteria for the selection of a neutral, third-party administrator already ensure unbiased bidding.<sup>9</sup> The Commission has specifically emphasized that the changes prescribed in the Order “would be essential to cross the threshold of *eligibility* for selection, but would impart to NECA no preferred status in the

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<sup>5</sup> MCI Petition at 6.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* MCI states that in its role as temporary administrator, “USAC will obtain substantial information about the day-to-day functioning of the administration” of the universal service programs. *Id.* It adds that the requirement that USAC turn over existing intellectual property to the permanent administrator in the event USAC is not chosen, “fails to prevent [it] from unfairly benefitting from the information and experience gained from its role as temporary administrator.” *Id.* at 7.

<sup>8</sup> *Id.* at 7.

<sup>9</sup> See Federal-State Joint Board on Universal Service, *Report and Order*, CC Docket No. 96-45 (rel. May 8, 1997) at ¶¶ 863-65. In addition, a Federal Advisory Committee is being created, with broad participation from all interested parties, to choose the neutral, third-party administrator, which further “eliminate[s] concerns that the chosen administrator will not be neutral.” *Id.* at ¶ 862.

selection decision.”<sup>10</sup>

What is relevant is that the most qualified organization be selected for this critically important job. Adopting MCI’s suggestion would unnecessarily restrict the Universal Service Advisory Committee in its search for the most qualified candidate and would be directly contrary to the goals of the NECA Order.<sup>11</sup>

MCI states that a second advantage is that the NECA Governance Order requires some members of the USAC Board to also sit on the Boards of the Schools and Libraries and Rural Health Care Corporations (“the Corporations”).<sup>12</sup> MCI states that “by failing to establish a new mechanism [for choosing the Corporations’ Boards] at the time the permanent administrator is chosen, the Commission has, in effect, required the USAC and its Board to continue indefinitely.”<sup>13</sup> MCI refers to this situation as “a flaw” to be remedied by requiring the Corporations’ Board members to resign before a NECA or USAC bidding effort, or immediately establishing a mechanism for choosing the Corporations’ Boards that is not linked to the Board of the permanent administrator.<sup>14</sup>

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<sup>10</sup> Changes to the Board of Directors of the National Exchange Carrier Association, Inc., *Notice of Proposed Rulemaking and Notice of Inquiry*, FCC 97-11, CC Docket No. 97-21 (rel. Jan. 10, 1997) at ¶ 14.

<sup>11</sup> MCI fails to recognize that any temporary administrator would have the same claimed advantage as USAC. If the Commission were to bar the temporary administrator from bidding for permanent status, it is unlikely that any qualified organization would want to assume those responsibilities.

<sup>12</sup> MCI Petition at 7.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 7-8.

MCI does not explain how the fact that some members of the USAC Board also sit on the Corporations' Boards provides an advantage to USAC in bidding for the position of permanent administrator, or causes a bias in the selection process. As mentioned above, the permanent administrator is to be selected by an independent Federal Advisory Committee using the Commission's detailed neutrality criteria.<sup>15</sup> Nor does MCI explain how it is "a flaw" or otherwise bad policy to allow some current USAC Board members to continue on the Corporations' Boards beyond the selection of a permanent administrator.<sup>16</sup> To the contrary, such continuity of experience among the Corporations' Board members, if the permanent administrator selected is not USAC, would be important to ensuring a smooth transition for the Schools & Libraries and Rural Health Care universal service programs.

For all of the foregoing reasons, the Commission should deny MCI's petition.

Respectfully Submitted,  
National Exchange Carrier Association, Inc.

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<sup>15</sup> See *supra*, note 9 and accompanying text.

<sup>16</sup> Contrary to MCI's assertion, if USAC is not selected as the permanent administrator, USAC and its Board will not "continue indefinitely."

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments was served this 2nd day of October 1997, by mailing copies thereof by United States Mail, first class postage paid or by hand delivery, to the persons listed below.

By: /s/ Perry S. Goldschein  
Perry S. Goldschein

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